

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of :

CHARLES V. SIMMONS JR. and
INDUSTRIAL WASTE PROCESSING

Order No. 88-18

INDUSTRIAL WASTE PROCESSING
1740 NORTH HARRISON
FRESNO, CALIFORNIA

Respondents

Proceeding under Section 106 of the
Comprehensive Environmental Response,
Compensation and Liability Act of 1980,
as amended by the Superfund Amendments
and Reauthorization Act of 1986,
(42 U.S.C. §9606)

I. Jurisdiction

This Order is issued to Charles V. Simmons Jr. and Industrial Waste Processing (known as "respondents") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42 U.S.C. 9601 et seq., by authority delegated to the Administrator of the United States Environmental Protection Agency (EPA), and redelegated to the EPA Regions.

The Director of the Toxics and Waste Management Division, EPA Region 9, has determined that there may be an imminent and substantial endangerment to the public health, welfare and the environment because of the release and threatened release of

1 hazardous substances from the Industrial Waste Processing
2 facility at 1740 North Harrison, Fresno, California.

3
4 II. Findings of Fact

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6 A. The Industrial Waste Processing facility, ("the site"), is a
7 former solvent recycling operation that was active from about
8 1957 to about 1981 at 1740 North Harrison, Fresno, California.

9 B. A search of records by the California Department of Health
10 Services (DHS) at the Fresno County Assessor's office, indicate
11 that Charles V. Simmons Jr. is the sole owner of the site and
12 that Industrial Waste Processing operated at the site between ap-
13 proximately 1957 to 1981.

14 C. The site is located on 0.5 acres, and is surrounded by the
15 Pinedale residential district to the north, west, and south.
16 There is light industrial and commercial property to the south
17 and east. A junior high school is located within one-half mile
18 of the site. A nursery school and elementary school are located
19 approximately one mile away.

20 D. On June 13-14, 1988, an EPA inspection was conducted at the
21 site at the request of the DHS. During this inspection, EPA rep-
22 resentatives conducted field tests and observed current site con-
23 ditions to assess environmental and public health hazards posed
24 by the site and the need for a removal action as defined under
25 CERCLA Section 101(23). EPA's observations and findings are
26 detailed in paragraphs E-R.

27 E. The site currently consists of an office/laboratory build-
28 ing, an open chemical storage shed, an above-ground tank farm,

1 solvent distillation equipment, and sumps. An open yard contains
2 approximately two hundred and fifty 55-gallon drums and two waste
3 piles.

4 F. The site's tank farm consists of eight above-ground steel
5 tanks with capacities ranging from 2,500 to 10,000 gallons. The
6 tanks currently contain crude oil, ethylene glycol, and zinc
7 chloride. At one time the tanks were used to store isopropyl al-
8 cohol, acetone, methyl ethyl ketone, toluene, xylene, and stod-
9 dard solvents. There is visual evidence of leakage and/or spil-
10 lage of tank contents onto the ground. A partially buried
11 cement-lined sump containing unknown liquids is located adjacent
12 to the tank farm.

13 G. Approximately fifty cubic yards of powdery lead solder waste
14 are stored in two piles. DHS sample results (July, 1986) indi-
15 cate that contaminant levels range from 14-30 percent lead and
16 9-22 percent zinc.

17 H. Approximately fifty 50-pound bags, and thirty 55-gallon
18 fiber drums of commercial grade asbestos are stored unsheltered
19 in several areas. The bags are in poor condition, and several
20 are broken open with asbestos spilling on the ground. DHS sample
21 results (May, 1988) indicate that the bags contain 70 percent
22 (plus or minus 20 percent), chrysotile asbestos. Exposed asbes-
23 tos insulation was also found on process equipment and scattered
24 around the site.

25 I. Approximately two hundred and fifty 55-gallon drums are
26 scattered throughout the site. It is estimated that one hundred
27 drums contain waste solvents and solvent still bottoms, and one
28 hundred and fifty drums contain lead solder waste. Several drums

are severely corroded, and several were observed to be leaking. Leakage from drums was observed running off the site. A list of the types of chemicals in the drums includes trichloroethylene, 1,1,1 trichloroethane, methylene chloride, freon, monoethanolamine, triethylene glycol, xylene, isopropanol, petroleum naptha, and various paint thinners.

J. It is estimated that over one hundred containers, ranging in size from one pint to five gallons, exist on site. Chemicals in these containers include ammonium hydroxide, phosphoric acid, toluene, methyl isobutyl ketone, ethylene glycol ether, hydrochloric acid, acetic acid, zinc ammonium phosphate, citric acid, potassium hydroxide, and methyl ethyl ketone.

K. During the EPA inspection, visible airborne dust was observed migrating off the site. The inspectors concluded that there was a high probability that the exposed lead, zinc, and asbestos described in paragraphs G. and H. above could migrate off the site as airborne dust.

L. According to a Respondent and the DHS, waste materials were routinely disposed of onto the ground and into shallow dry wells.

M. The Pinedale County Water District Municipal Well #3 is located less than 1/4 mile from the site. A sample collected from this well on April 28, 1988 found 390 parts per billion (ppb) of trichloroethylene (TCE). The California state drinking water action level for TCE is 5 ppb. The DHS is investigating several facilities, including the site, as sources of groundwater contamination.

N. Lead compounds are carcinogens of the lungs and kidneys. Exposure pathways include both ingestion and inhalation. Upon

1 inhalation, absorption takes place through the respiratory tract
2 and symptoms tend to develop more quickly than from ingestion.
3 Lead is a cumulative poison. Increasing amounts build up in the
4 body to a point where symptoms and disability occur. Lead
5 produces a brittleness of the red blood cells, sensitizing them
6 to trauma. Lesions of the kidney, liver, male glands, nervous
7 system, blood vessels, and other tissues can result from lead ex-
8 posures.

9 O. Zinc compounds exhibit varying toxicities. Workers in zinc
10 refining have been reported as suffering from a variety of non-
11 specific intestinal, respiratory and nervous symptoms. Ulcera-
12 tion of the nasal septum and eczematous dermatosis are also
13 reported.

14 P. Inhalation of asbestos fibers has been shown to cause lung
15 cancer and a variety of other respiratory diseases.

16 Q. Many of the chemical wastes listed in paragraphs I. and J.
17 above (such as strong acids and bases) are considered incom-
18 patible with each other. Uncontrolled mixtures of these wastes
19 can produce effects which are harmful to human health and the en-
20 vironment, such as: 1) heat or pressure, 2) fumes or explosion,
21 3) violent reaction, 4) toxic dusts, mists, fumes, or gases, or
22 5) flammable fumes and gases.

23 R. The population at risk includes residents living near the
24 site, workers at businesses near the site, and students at the
25 schools near the site.

26 S. The EPA has designated an On-Scene-Coordinator ("OSC") for
27 the site, pursuant to 40 C.F.R. Part 300, published at 50 Fed.
28 Reg. 47912 (November 20, 1985).

1
2 **III. Conclusions of Law**

3 **A. Respondents are "persons" as defined in Section 101(21)**
4 **of CERCLA, 42 U.S.C. §9601(21).**

5 **B. The property located at 1740 North Harrison, Fresno, CA,**
6 **is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C.**
7 **§9601(9).**

8 **C. Lead, zinc, asbestos, and incompatible wastes are**
9 **"hazardous substances" as defined in Section 101(14) of CERCLA,**
10 **42 U.S.C. §9601(14).**

11 **D. The presence of hazardous substances on the site and the**
12 **potential for those substances to become airborne or for the haz-**
13 **ardous substances to migrate to groundwater constitutes a**
14 **"release" or "threatened release" of hazardous substances into**
15 **the environment as defined in Section 101(22) of CERCLA, 42**
16 **U.S.C. §9601(22).**

17 **E. Respondents are "responsible parties" as defined in Sec-**
18 **tion 107(a)(3) of CERCLA, 42 U.S.C. §9607(a)(3).**

19
20 **IV. Determinations**

21 **Based on the Findings of Fact and Conclusions of Law, the**
22 **Director, Toxics and Waste Management Division, EPA Region 9, has**
23 **made the following determinations:**

24 **A. The release or threatened release of hazardous sub-**
25 **stances and pollutants or contaminants from the site may present**
26 **an imminent and substantial endangerment to the public health,**
27 **welfare, and the environment.**

28 **B. In order to prevent or mitigate immediate and sig-**

1 nificant risk of harm to human health and the environment, it is
2 necessary that actions be taken immediately to contain and
3 prevent the release and potential release of hazardous sub-
4 stances, pollutants or contaminants from the site.

5 C. The removal measures required by this Order are consis-
6 tent with the National Contingency Plan, 40 Code of Federal
7 Regulations, Part 300.

8 V. Order

9 Based upon the Findings of Fact, Conclusions of Law and
10 Determinations, EPA hereby Orders the Respondents to implement
11 the following measures under the direction of EPA's On-Scene
12 Coordinator.

13 A. Upon receipt of this Order, immediately provide 24-hour site
14 security.

15 B. Within five (5) calendar days of the effective date of this
16 Order, submit to EPA a Site Stabilization and Characterization
17 Plan addressing the following:

- 18 1. Site Safety Plan
- 19 2. Dust Supression and Stabilization
- 20 3. Air Monitoring for vapors and dust
- 21 4. Removal of all asbestos from the site
- 22 5. Removal of all lead solder waste from the site
- 23 6. Characterization of material in drums, containers,
24 tanks, and sumps
- 25 7. Overpacking of leaking drums, and spillage cleanup
- 26 8. A schedule for implementation

27 C. Within fifteen (15) calendar days of the effective date of
28 this Order, submit to EPA a Site Mitigation Plan addressing the

1 following:

- 2 1. Site Safety Plan
- 3 2. Sampling of soil to determine extent and magnitude of
- 4 contamination both on and off site
- 5 3. Treatment or disposal of contaminated soils
- 6 4. Preparation of all hazardous waste on site for
- 7 appropriate treatment or disposal
- 8 5. A schedule for implementation

9 D. Within twenty-four (24) hours of EPA approval of either of
10 the plans described in paragraphs B. and C., initiate implementa-
11 tion of the plans under EPA's direction according to the EPA-
12 approved schedule.

13 14 VI. Compliance With Other Laws

15 Respondents shall comply with all federal, state and local
16 laws and regulations in carrying out the terms of this Order. All
17 hazardous substances removed from the facility must be handled in
18 accordance with the Resource Conservation and Recovery Act of
19 1976, 42 U.S.C. § 6921, et seq., the regulations promulgated un-
20 der that Act, and Section 121(d)(3) of CERCLA, 42 U.S.C. Section
21 9621(d)(3).

22 VII. On-Scene Coordinator

23 EPA has appointed an On-Scene Coordinator (OSC) for the Site
24 who has the authority vested in the On-Scene Coordinator by 40
25 C.F.R. Part 300, et seq. The On-Scene Coordinator for the site
26 for the purposes of this Order is:

27 Dan Shane
28 United States Environmental Protection Agency
Region 9
215 Fremont Street

1 San Francisco, California 94105
2 (415) 974-8361

3 **VIII. Submittals**

4 All submittals and notifications to EPA required by
5 this Order or any approved proposal under this Order shall be
6 made to:

7 Jeff Zelikson
8 Director, Toxics and Waste Management Division
9 United States Environmental Protection Agency
10 Region 9
215 Fremont Street
San Francisco, California 94105

11 Copies of all submittals and notifications shall be sent to
12 the On-Scene Coordinator.

13 All approvals and decisions of EPA made regarding the sub-
14 mittals and modifications shall be communicated to Respondents by
15 the Director, Toxics Waste and Management Division or his
16 designee. No informal advice, guidance, suggestions, or comments
17 by EPA regarding reports, plans, specifications, schedules, or
18 any other matter will relieve Respondents of their obligation to
19 obtain formal approvals as required by this Order.

20 **IX. Access**

21 Respondents shall provide EPA employees and other represen-
22 tatives with complete access to the facility at all times. Noth-
23 ing in this Order limits any access rights that EPA or other
24 agencies may have pursuant to law.

25 **X. Endangerment During Implementation**

26 The Director, Toxics and Waste Management Division, EPA
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1 Region 9, may determine that acts or circumstances (whether re-
2 lated to or unrelated to this Order) may endanger human health,
3 welfare or the environment and may order the Respondents to stop
4 further implementation of this Order until the endangerment is
5 abated.

6 XI. Government Not Liable

7 The United States Government and its employees and other
8 representatives shall not be liable for any injuries or damages
9 to persons or property resulting from the acts or omissions of
10 Respondents, their employees or other representatives caused by
11 carrying out this Order. For the purposes of this Order, the
12 United States Government is not a party to any contract with the
13 Respondents.

14 XII. Noncompliance

15 A. A willful violation or failure or refusal to comply
16 with this Order may subject Respondents to a civil penalty of up
17 to \$25,000 per day in which the violation occurs or failure to
18 comply continues, pursuant to the provisions of Section 106(b)(1)
19 of CERCLA, 42 U.S.C. §9606(b)(1). Failure to comply with this
20 Order without sufficient cause may also subject Respondents to
21 punitive damages of up to three times the total costs incurred by
22 the United States for site response pursuant to Section 107(c)(3)
23 of CERCLA, 42 U.S.C. § 9607(c)(3).

24 B. EPA may take over the response action at any time if
25 EPA determines that Respondents are not taking appropriate ac-
26 tion. EPA may order additional actions it deems necessary to
27 protect public health, welfare, or the environment.

28 XIII. Opportunity to Confer

1 Respondents may request a conference with the Director,
2 Toxics and Waste Management Division, EPA Region 9, or his staff
3 to discuss the provisions of this Order. At any conference held
4 pursuant to Respondents' request, Respondents may appear in per-
5 son or by counsel or other representatives for the purpose of
6 presenting any objections, defenses or contentions which Respon-
7 dents may have regarding this Order. If Respondents desire such
8 a conference, Respondents must make a request orally within 24
9 hours of receipt of this Order, and confirm the request in writ-
10 ing immediately. A conference does not alter the effective date
11 of the Order.

12 XIV. Parties Bound

13 This Order shall apply to and is binding upon the Respon-
14 dents, their officers, directors, agents, employees, contractors,
15 successors, and assigns.

16 XV. Notice of Intent to Comply

17 Within 24 hours of receipt of this Order, Respondents shall
18 orally inform EPA of their intent to comply with the terms of
19 this Order. The oral notice shall be confirmed within two (2)
20 days by written notice to the Director. Failure to timely notify
21 EPA of the Respondents' intent to fully comply will be construed
22 by EPA as a refusal to comply.

23 XVI. Notice to State

24 Notice of the issuance of this Order has been given to the
25 State of California. EPA will consult with the California
26 Department of Health Services and the California Regional Water
27 Quality Control Board, as appropriate.

XVII. Effective Date

Notwithstanding any conferences requested pursuant to the provisions of this Order, this Order is effective on the date of execution by the Director, Toxics and Waste Management Division, EPA Region 9.

IT IS SO ORDERED on this 17th day of June, 1988.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

by: 
Jeff Zelikson
Director, Toxics and Waste Management Division
EPA, Region 9

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